

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WENDY RAYMOND,

Plaintiff,

vs.

NOTICE OF REMOVAL

Civ. No:

GEOVANES DIAS DE ARAUJO and
ES EXPRESS TRANSPORT, INC.

Defendants.

TO: UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Pursuant to 28 U.S.C. §§ 1141 and 1446(a), defendants GEOVANES DIAS DE ARAUJO and ES EXPRESS TRANSPORT, INC. (hereinafter “defendants”), by their attorneys, Nash Connors, LLC, hereby give notice of the removal of this action from the State of New York Supreme Court, County of Rockland, to the United States District Court for the Southern District of New York.

PROCEDURAL HISTORY

1. Pursuant to Local Rule 81(a)(3)(A), an Index of all documents filed to date in the State Court action is attached hereto as **Exhibit A**.

2. Plaintiff WENDY RAYMOND filed a Summons and Complaint, attached hereto as **Exhibit B**, in the Rockland County Clerk’s Office on August 2, 2023 (Rockland County Index No. 033749/2023).

3. Upon information and belief, the Summons and Complaint were served upon defendant GEOVANES DIAS DE ARAUJO on or about August 3, 2023 and defendant ES EXPRESS TRANSPORT, INC. on or about August 21, 2023.

4. Defendants appeared by filing and serving an Answer on August 24, 2023, a copy of which is annexed hereto as **Exhibit C** along with a Notice to Take Deposition annexed hereto as **Exhibit D**.

5. Less than 30 days have elapsed since the time which the case became removable. As such, removal is timely. *See* 28 U.S.C. § 1446(b)(1).

DIVERSITY JURISDICTION

6. Plaintiff's Complaint alleges that "presently and at all times hereinafter mentioned" she "was a resident of the County of Rockland and State of New York." Exhibit B, ¶ 1.

7. Plaintiff alleges in her Complaint that plaintiff WENDY RAYMOND was injured during an incident that occurred on May 8, 2023, in the vicinity of the intersection of Interstate 87 SB and MPM 19.7 Clarkstown, New York. Exhibit B, ¶¶ 11, 12, 13.

8. Plaintiff also alleges in the Complaint that defendant ES EXPRESS TRANSPORT, INC. "was and still is an out of state corporation". Exhibit B, ¶ 3. That is a true statement. Moreover, in its Answer, Exhibit C, ¶ 3, defendant ES EXPRESS TRANSPORT, INC. acknowledges it is a Massachusetts Domestic Profit Corporation with its principal place of business located in Shrewsbury, Massachusetts.

9. Pursuant to 28 U.S.C. § 1332(c)(1), a corporation shall be a citizen of every state by which it has been incorporated and of the state where it has its principal place of business. Defendant is incorporated in the State of Massachusetts, with its corporate headquarters located in Shrewsbury, Massachusetts.

10. Plaintiff alleges in the Complaint that defendant GEOVANES DIAS DE ARAUJO "was, and still is, a resident of the State of Massachusetts, County of Middlesex." Exhibit B, ¶ 2. That is true. Moreover, defendants admit that defendant GEOVANES DIAS DE ARAUJO is a

resident of the State of Massachusetts. Exhibit C, ¶ 2.

11. Accordingly, this Court possesses jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) based upon complete diversity of citizenship.

SUBJECT MATTER JURISDICTION

12. Plaintiff has demanded a sum well in excess of \$75,000.

13. Thus, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) in that it is a civil action between “citizens of different States” and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

14. Venue is proper pursuant to 28 U.S.C. § 1441(a) as this is the federal district court for the district embracing the place where the State court suit is pending and where the accident is alleged to have occurred.

WHEREFORE, defendants GEOVANES DIAS DE ARAUJO and ES EXPRESS TRANSPORT, INC. file this Notice of Removal so that the entire State Court action under Index No. 033749/2023 now pending in the State of New York Supreme Court, County of Rockland, be removed to this Court for all further proceedings.

DATED: BUFFALO, NEW YORK
August 25, 2023

NASH CONNORS, P.C.

/s/ Philip M. Gulisano

By _____
Philip M. Gulisano
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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August 2023, a copy of the foregoing Notice of Removal with attached exhibits was electronically filed using the CM/ECF system with the Clerk of the District Court and served same upon the individual indicated below by mailing a copy of same via U.S. Postal Service to the following:

Rithwick Bhagwati, esq.
MORGAN & MORGAN NY PLLC
350 Fifth Avenue, Suite 6705
Buffalo, New York 10118
(201) 209-3439

/s/ Philip M. Gulisano

PHILIP M. GULISANO